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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,724	10/26/2001	Wyatt Allen Huddleston	PF02200NA/10-31	9665
51874	7590	06/15/2006	EXAMINER	
LAW OFFICES OF CHARLES W. BETHARDS, LLP			AVELLINO, JOSEPH E	
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COLLEYVILLE, TX 76034			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/045,724 	HUDDLESTON ET AL.
	<b>Examiner</b> Joseph E. Avellino	<b>Art Unit</b> 2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 May 2006.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. Claims 1-20 are presented for examination; claims 1, 11, and 18 independent.

***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5, 8, 9, 11-12, 15, and 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by van Ee et al. (USPN 6,774,813) (hereinafter van Ee).

3. Referring to claim 1, van Ee discloses a method for command brokering on behalf of an intelligent device (i.e. programmable control device 106), comprising the steps of:

defining in a wireless Internet access device (i.e. programming means) a desired function to be performed (i.e. controlling an appliance) (col. 6, lines 1-24);  
identifying the intelligent device and the desired function to a web site 118 having access to control instructions for the intelligent device (col. 6, lines 9-20);  
returning, to the WIAD from the web site, a subset of the control instructions for controlling the intelligent device to perform the desired function (col.6, lines 9-20); and  
forwarding the subset of the control instructions from the WIAD to the intelligent device to effect the desired function (col. 6, lines 33-35).

4. Referring to claim 2, van Ee discloses the forwarding step comprises forwarding through an infrared communication device (i.e. IR RX/TX) (col. 6, lines 34-35).

5. Referring to claim 3, van Ee discloses forwarding through an RF interface (col. 8, lines 25-30).

6. Referring to claim 5, van Ee discloses the defining step comprises defining through a user keypad entry (col. 6, lines 1-9).

7. Referring to claim 8, van Ee discloses arranging for the web site to have access to the control instructions by pre-programming the control instructions into a memory of the web site (i.e. server with database) (col. 6, lines 10-25).

8. Referring to claim 9, van Ee discloses accessing a server 118 having the control instructions for controlling the intelligent device (col. 6, lines 10-25).

9. Claims 11-13, 15, and 17-20 are rejected for similar reasons as stated above.

***Claim Rejections - 35 USC § 103***

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4, 6, 7, 14, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over van Ee in view of Maymudes (USPN 6,748,278).

11. Referring to claim 4, van Ee discloses the invention substantively as described in claim 1. van Ee does not disclose forwarding through ultrasonic communication device. In analogous art, Maymudes discloses another method of brokering on behalf of an intelligent device wherein the forwarding can occur through an ultrasonic communication device (i.e. Bluetooth) (col. 3, lines 20-32). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with van Ee since van Ee discloses the invention can be used with a plurality of different devices (102, 104). This would lead one of ordinary skill in the art to determine which other devices can be used for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

12. Referring to claim 6 and 7, Tessler discloses the invention substantively as described in claim 1. Tessler does not disclose defining said desired function is made by a measurement by the WIAD. In analogous art, Maymudes discloses another method of brokering on behalf of an intelligent device wherein defining said desired function is made by a measurement by the WIAD (i.e. computer facilitator 202) (col. 5, lines 35-43). Furthermore, since the WIAD is connected to the wireless network, and also the remote controller 204 and controlled device 206 are as well, it is considered

that the measurement is done by the wireless communication network as well. It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Maymudes with van Ee since van Ee discloses the invention can be used with a plurality of different devices (102, 104). This would lead one of ordinary skill in the art to determine which other devices can be used for brokering command, eventually finding Maymudes finding a command broker for televisions, stereos, VCR's speakers, microwave ovens, etc (col. 7, lines 40-50).

13. Claims 14, and 16 are rejected for similar reasons as stated above.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over van Ee in view of Baun et al. (US 2003/0197930) (hereinafter Baun).

14. Tessier discloses the invention substantively as described in claim 1. Tessier does not disclose the intelligent device is a telescope and the defining step comprises determining coordinates based on a position. In analogous art, Baun discloses another method for brokering control which discloses intelligent device is a telescope (e.g. abstract) and the defining step comprises determining coordinates based on a position (p. 8, ¶ 87). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Baun with Tessler since Tessler discloses the invention can be used with a plurality of different devices (102, 104). This would lead one of ordinary skill in the art to determine which other intelligent devices

can be used for brokering command, eventually finding Baun finding a command broker for GPS systems for telescopes (col. 7, lines 40-50).

***Response to Arguments***

15. Applicant's arguments filed May 22, 2006 have been fully considered but they are not persuasive.

16. In the remarks, Applicant argues, in substance, that (1) the programming means 110 is not considered a wireless internet access device because the only wireless functionality are between the programming means 110 and the remote control 106 via the IR link, and (2) no desired function is indicated to the remote server, rather the remote server selects a subset of control instructions from each full set and these are returned to the programming device.

17. As to point (1) Applicant is importing limitations into the claim. The phrase "wireless internet access device" can be construed as a device with wireless capability, and can access the internet. As such, programming means 110 has wireless capability (i.e. it can wirelessly connect with the control device 106, and does not necessarily have to connect to the internet wirelessly), and can connect to the Internet (as shown in Figure 1, ref. 114). Applicant is reminded that Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). By this

rationale, the rejection is maintained.

18. As to point (2) Applicant is incorrect. As stated in the previous Office action, the function is controlling an appliance. This is an inherent feature of the system, since the user "selects the apparatus type/brand combination... [which is] then transmitted via the Internet 116 to remote server 118" (col. 6, lines 5-10). This clearly shows that the WIAD defines a desired function to be performed, (i.e. retrieve the control codes corresponding to the selected type/brand combination). By this rationale, the rejection is maintained.

### ***Conclusion***

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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20. Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993). Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly and distinctly, define the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

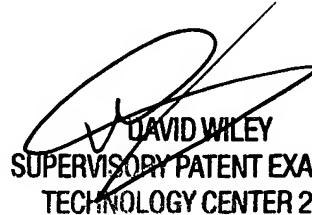
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA  
June 5, 2006



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